

FILED

JAN 7 2 41 PM '04

PUBLIC UTILITIES  
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of	)	PUC Docket No. 03-0417
	)	
HAWAIIAN ELECTRIC COMPANY, INC.	)	MOTION TO INTERVENE
	)	OF MICHELLE S. MATSON
For approval to commit funds in excess	)	
of \$500,000 for Item Y48500,	)	
East Oahu Transmission Project	)	
_____	)	

MOTION TO INTERVENE OF MICHELLE S. MATSON

Comes now Movant MICHELLE S. MATSON and respectfully moves this honorable Public Utilities Commission of the State of Hawaii (the "Commission") to intervene in the above-captioned proceeding and further moves this Commission to authorize her to participate as a party.

This motion is brought pursuant to Hawaii Administrative Rules ("HAR") Section 6-61-55, Intervention. In support of her motion to Intervene, Movant asserts the following, consistent with the requirements of HAR Section 6-61-55(b):

1. Nature of Movant's right to participate in the hearing. The principal case defining standing requirements in Hawaii is *Life of the Land v. Land Use Commission*, 63 Haw. 166 (1981) (hereinafter "*LOL v. LUC*"). In this case, the Hawaii Supreme Court addressed the issue of whether LOL and some of its members "who are neither owners of reclassified land nor owners of adjoining reclassified land have standing to invoke judicial scrutiny of the procedures followed" by the LUC. 63 Haw. at 169. In deciding conclusively that LOL had standing, the Hawaii Supreme Court set forth the applicable law: "whether the plaintiff has 'alleged such a personal stake in the outcome of the controversy' as to warrant his invocation of ... jurisdiction and to justify exercise of the court's remedial powers on his behalf."

There is compelling precedent in Hawaii transmission line controversies that favors liberal intervention. HECO filed an application (PUC docket No. 7256), dated March 12, 1992, to build transmission lines between their Waiau Power Plant and Campbell Industrial Park ("Waiau-CIP"). The public was given twenty (20) days to intervene. Fifty-one (51) WEEKS after the application was filed, two groups, the Village Park Community Association (VPCA) and the Tungpalan Appellants (16 county and state legislators) applied to intervene and were allowed to do so.

Furthermore, during the 2003 East Oahu Transmission Project meetings, HECO Vice President Chuck Freedman stated: "There will be a discussion of need and it will be detailed and occur before the PUC. PUC has an evidentiary hearing, court-like in nature, Consumer Advocate represent public, opportunities for interveners, and need will be looked at in great detail. Public part[icipation] is important, and so is info[rmation] from company. That day isn't today; we're attempting to get

proposals, and comments on impact and preferences. In this, you folks are the experts, and you speak to that. Let me just say as clearly -- you can express no need, one alternative, none. There will be another opportunity before the PUC.” Notes from Community Meetings, Codified by 3Point Consulting, page 33. HECO electronic compact disc submittal to the PUC re EOTP. (Emphasis added).

Precedent and the assurances of HECO’s spokesman compel allowing intervention by Movant.

2. The nature and extent of the applicant’s property, financial, and other interest in the pending matter. Movant Michelle S. Matson is an individual landowner in the East Oahu area. Movant has participated in a series of public meetings regarding this transmission line proposal and its related segments, including public meetings on the proposed Wa’ahila Ridge 138-kV line as recently denied following a contested case hearing, and subsequent public meetings in 2003 sponsored by HECO in the Waipahu, Kaneohe, and several locations in Honolulu concerning their proposed powerline alternatives for East Oahu.

3. The effect of the pending order as to the applicant’s interest. In addition to being an individual landowner in the East Oahu area, Movant Michelle S. Matson is active in environmental, conservation, and community organizations in Honolulu, and is concerned about any and all environmental impacts, including but not limited to potential electro-magnetic field (EMF) impacts on the health and safety of residents and school children; visual impacts on significant Oahu viewplanes; and impacts on property values created by overhead transmission lines. HECO has suggested a number of different alignments and options, and may expand or add options in this docket.

To safeguard her property and environmental interests, Movant must be recognized as having standing and allowed to intervene.

4. Other means available wherein applicant may protect his interest. There are no other means available for Movant Michelle S. Matson to protect her interests.

5. Other parties do not represent Movant’s interests. The current parties are the applicant, HECO, and the Consumer Advocate, who represents consumers’ or ratepayers’ interests. Neither of the current parties represent Movant’s property and environmental interests.

6. Movant’s participation will assist the development of a sound evidentiary record. Movant will help the Commission be aware of property and environmental interests in the Diamond Head, Kapahulu, Palolo, and McCully-Moili’ili area, and will assist the Commission in making a more complete and better record.

7. Movant’s participation will neither unduly broaden the issues nor delay this proceeding. Movant seeks only to protect her stated property and environmental interests, which are currently unrepresented in this proceeding. She will do nothing to delay the process or broaden the issues

beyond those determined by the PUC.

8. Movant's interests differ from those of the general public. The general public is represented by the Consumer Advocate, who represents all consumers or ratepayers. The Consumer Advocate is bound by law to represent the broad interests of the general public, not specialized interests. Movant's interests extend to the EOTP's adverse effect on property values and the environment as well as residents and property owners in Diamond Head, Kapahulu, Palolo, and McCully-Moili'i, as well as the larger community of East Oahu.

9. Whether the applicant's position is in support of or in opposition to the relief sought. Movant opposes this application by HECO. To date, there has been absolutely no showing of a need for this line in any form. Moreover, East Oahu should not be scarred by this unneeded project.

Conclusion. For the above-stated reasons, Movant Michelle S. Matson respectfully requests that the Commission grant her Motion to Intervene.

DATED: Honolulu, Hawaii, January 7, 2004.

  
MICHELLE S. MATSON

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of	)	PUC Docket No. 03-0417
	)	
HAWAIIAN ELECTRIC COMPANY, INC.	)	CERTIFICATE OF SERVICE
	)	
For approval to commit funds in excess of	)	
\$500,000 for Item Y48500,	)	
East Oahu Transmission Project	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that the original and eight copies of the Motion to Intervene of Michelle S. Matson and two more copies of the same were, respectively, duly served on January 7, 2004, by hand delivery to the following:

Carl Caliboso, Chair  
Public Utilities Commission  
465 S King St. Suite 103  
Honolulu, HI 96813

Cheryl Kikuta, Acting Consumer Advocate  
Office of the Consumer Advocate  
Division of Consumer Advocacy, DCCA  
335 Merchant Street, Suite 326  
Honolulu, HI 96813

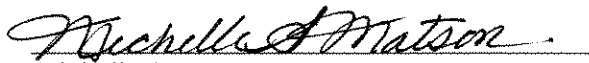
I hereby further certify that copies of said Motion to Intervene were duly served on January 7, 2004 by depositing in the United States mail, postage prepaid, one copy of the same addressed to each of the following:

Thomas W. Williams, Jr., Esq.  
Peter Y. Kikuta, Esq.  
Goodsill Anderson Quinn & Stifel  
Hawaiian Electric Company  
Alii Place, Suite 1800  
1099 Alakea Street  
Honolulu, HI 96813

Bill Bonnett  
Vice President - Government and  
Community Affairs  
P.O. Box 2750  
Honolulu, HI 96840-0001

Patsy H. Nambu  
Director - Regulatory Affairs  
Hawaiian Electric Company  
P.O. Box 2750  
Honolulu, HI 96840-0001

DATED: Honolulu, Hawaii, January 7, 2004

  
Michelle S. Matson